

Extracurricular Activities and 504 Plans

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Abstract

Schools today are faced with an ever-growing number of case law regulating them with regards to students with disabilities. This regulating does not only occur with students with disabilities, but also with their participation in interscholastic sports (Sullivan, 2000). Schools are charged with providing equal education for a variety of students, not just in the classroom but in school programs as well. This article deals with a hypothetical situation that involves a student with a 504 plan. Discussed is what schools can do with regards to students with 504 plans when participating in extracurricular activities.

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The hypothetical legal problem that will be dealt with in this situation involves a deaf student at a local school. Since the student is deaf he falls within the protections of Section 504 of the Rehabilitation act of 1973 and his disability is defined as “one that limits one of his major life activities” (LaMorte, 2008). Due to this ability, he is entitled to reasonable accommodations in any program receiving federal assistance (LaMorte, 2008). This student has recently moved into the county and would like to try out for the local high school’s football team. His parents’ state that as per his 504 plan the school should provide a sign language interpreter to the student during his football participation, positing that this would be the only way to allow the student to participate without affecting him negatively as well as give him an equal chance at participation.

During the regular school day this student does not receive any accommodations for his disability because he can read lips and has the ability to speak if necessary. However during football the student’s ability to read lips is impacted and his parents request the sign language interpreter for practices when the student is unable to read lips. The school does not want to exclude the student in participating in the extracurricular activities but they decline the parents request for an interpreter for the football practices, claiming that it would be an unnecessary cost for the school and is not an accommodation that the school would meet. After receiving notice of the schools’ decision, the parents file suit against the school board claiming that their son’s fourteenth amendment rights have been violated. They argue that the school board is also in violation of the Rehabilitation Act of 1973, denying their student the opportunity to participate equally based on his disability. The parents feel that without an interpreter their child will not be able to obtain a normal school experience and this will have a detrimental effect on the students’ chances to obtain a college scholarship in athletics.

The question for this situation is not whether the student can participate in football, but rather should the school provide the student with an interpreter for the practices. The

school could exclude the student from participating if they wished, if they felt that the exclusion was to help protect the student or other students. However, Section 504 states that handicapped persons are entitled to reasonable accommodations to help facilitate their participation. Reasonable accommodations include modifications to academic requirements and work conditions. An accommodation is not reasonable, and not required, when it would result in unreasonable risks or costs (La Morte, 2008). In this case the school considers the cost of the interpreter unreasonable and therefore would not provide it for the student participating in the extra curricular activity.

Providing reasonable accommodations for students that qualified under Section 504 is an essential part of plans made for students with disabilities. To provide reasonable accommodation, in this case, the school has the duty to identify barriers that can potentially cause difficulty to the disabled person's satisfaction, after which the school must take appropriate steps to remove those barriers (Lawson, 2008). For reasonable accommodations to be met the school must focus on the barriers and respond to the specific circumstances on a case by case basis. Blanket procedures cannot be made for all students with disabilities. In this case the school has to take into account the individual student's needs and whether denying the student an interpreter for football practice, and not school, would in fact prove a barrier for his enjoyment. The school also has to determine if the cost of the interpreter is reasonable or not. The reasonableness of providing and determining a cost will again depend on the circumstances and will be the duty of bearer in question (Lawson, 2008). Therefore, the judgment of whether or not the interpreter is reasonable or not ultimately lies with the school.

In this hypothetical case the school must look at a few things when determining the reasonableness of the interpreter for football practices. Since the adjustment depends on the circumstances, the school must first decide if the student qualifies for accommodations. Since this particular student does qualify the school must next look at the football program itself. The factors that must be considered when looking at the football program include an analysis of the size of the program, its overall budget compared to the potential cost of the accommodation, the potential disruption to the program that might be caused by the requested accommodation and any other accommodations specifically geared to the individual student (Klungseth, 2007).

For this case the school can determine if the accommodation is too costly compared to the budget for football; in this case, providing an interpreter for every practice could be considered too costly. The school would then look at whether there is potential for disruption with an interpreter at the football practice; again the school could deem this as a disruption since football is a contact sport played without direct assistance from a coach. These particular statements mean that if an interpreter was provided to the student, this action can change the way the program is essentially and fundamentally conducted. This is considered the "exception to the exception," meaning the accommodation is unreasonable if it fundamentally alters the nature of the program (Klungseth, 2007).

With the school making a valid effort to determine reasonable accommodations for the deaf student, their final decision is to not offer a sign interpreter for the student at football

practice, stating the aforementioned factors of cost, potential for distractions, and fundamentally altering the program. However, as recourse the school has the right to make an attempt at an alternate accommodation for the student. Schools may develop alternate ways for students to participate meaningfully in extracurricular activities providing the other accommodation cannot be met (Sullivan, 2000). If alternate accommodations are made, the school must be cautious to offer alternatives only when reasonable accommodations cannot be met and not in lieu of affording the student a chance at equal opportunity participation. Therefore, if the school wanted to offer an interpreter for football meetings or a few practices the school could make that arrangement if the other requirements were met.

While there have been cases where schools offered interpreters for deaf students in this particular case the school does not. They have however, offered an alternate route providing the student with an interpreter for a few practices. This satisfies the needs of the students and parents but does not have a negative impact on the football program fiscally, organizationally, or fundamentally. The school followed due process in handling the individual challenges of the student and provided proper due process to the student and family (Klungseth, 2007).

School practitioners should strive to be aware and be legally literate and compliant when dealing with Section 504 (Zirkel, 2009). In regards to student athletes, schools have to be just as diligent to make sure students first qualify under Section 504 for reasonable accommodations and second whether reasonable accommodations are needed and can be successfully implemented. Offering accommodations for students with disabilities can be a difficult, it involves a long and detailed process but it is a process that schools must conduct efficiently and in a timely manner. The school's ultimate goal is to provide an environment where all students have the opportunity to succeed, regardless of disabilities or not, this is in the schoolhouse and in any extracurricular activities provided by the school. Therefore it is the responsibility of the leaders of the school to maintain that environment and make sure that students are afforded equal opportunities, and have a clear understanding of what that entails and how to put that in action.

References

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